

Agency 97

Kansas Commission on Veterans' Affairs

Articles

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**Article 1.—SOLDIERS' HOME;
MEMBERSHIP**

97-1-1. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-1-1a. Definitions. As used in these regulations, the following terms shall have the meanings specified in this regulation: (a) "Applicant" means a person who has submitted to the Kansas commission on veterans' affairs a completed application packet and military discharge papers.

(b) "Commission" means the body of commissioners appointed by the governor to oversee the Kansas commission on veterans' affairs (KCVA).

(c) "Discharge" means the permanent removal by the commission of a member from a KCVA home.

(d) "Executive director" means the person who serves as executive director of the KCVA.

(e) "Furlough" means the temporary eviction of a member by the respective superintendent or designee, for any infraction of these regulations.

(f) "KSH" means Kansas soldiers' home at Fort Dodge, Kansas.

(g) "KVH" means Kansas veterans' home in Winfield, Kansas.

(h) "Licensed medical authority" means a person who is authorized by law to diagnose mental diseases or disorders.

(i) "Pass" means a superintendent's prior written permission for the voluntary, temporary absence of the veteran or nonveteran member from the home for a period in excess of 23 hours, as specified in K.A.R. 97-3-3a. An approved pass shall not affect the eligibility status of the member.

(j) "Release" means a voluntary separation granted by a superintendent upon request of a veteran or nonveteran member. The member leaves the home in good standing, and this departure does not affect the member's standing or subsequent KCVA or United States department of veterans affairs benefits.

(k) "Residence hall" means a domiciliary, including cottages, or long-term health care facility.

(l) "State" means the state of Kansas.

(m) "Superintendent" means the person appointed by the KCVA as superintendent for the KSH or KVH.

(n) "USDVA" means United States department of veterans affairs.

(o) "Weapon" means any of the following:

(1) Bludgeon, sand club, metal knuckles, throwing star, dagger, dirk, billy, or blackjack;

(2) any firearm; or

(3) (A) Any knife that is more than four inches long or opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife; or

(B) any knife having a blade that opens, falls, or is ejected into position by the force of gravity or by outward, downward, or centrifugal thrust or movement. (Authorized by and implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

97-1-2. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-1-2a. Administrative oversight. These regulations shall apply to the Kansas soldiers' home and the Kansas veterans' home, which are administered by the commission. (Authorized by

K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

97-1-3. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980; revoked May 1, 2009.)

97-1-3a. Eligibility. (a) General. Eligibility for admission shall be based upon K.S.A. 76-1908 and K.S.A. 76-1954, and amendments thereto.

(b) Mental illness, legal incompetence, alcohol abuse, and drug abuse.

(1) Mental illness. No person who has been diagnosed by a licensed medical authority as being mentally ill shall be admitted to the KSH or KVH unless the illness is managed by medication prescribed by a licensed medical authority and that medical authority certifies both of the following:

(A) With the prescribed medication, the individual will not be a threat to that person, any other person, or the property of others.

(B) The individual can be cared for and medicated by KSH or KVH staff with medication that is reasonably available through the KSH or KVH.

(2) Legal incompetence. No person who meets any of the following conditions and has not been restored to competency by the court pursuant to the applicable act shall be admitted unless the person's guardian or conservator, or both, or curator is available to make the legal, financial, and medical decisions on behalf of the person:

(A) Has been adjudged in need of a guardian or conservator, or both, by a court in this state pursuant to the act for obtaining a guardian or a conservator, or both, K.S.A. 59-3050 et seq. and amendments thereto;

(B) has been adjudged in need of a curator pursuant to the curators for veterans act, K.S.A. 73-501 et seq. and amendments thereto; or

(C) has been adjudged by a court of competent jurisdiction in another state or the District of Columbia pursuant to an act similar to either of the acts specified in paragraphs (b)(2)(A) and (B).

(3) "Abuse" shall mean a person's lack of self-control in the use or ingestion of alcohol or drugs or a person's use or ingestion of alcohol or drugs to the extent that the person's health is substantially impaired or endangered or the person's social or economic functioning is substantially disrupted.

(4) Alcohol abuse. No person who is abusing alcohol and not participating in a program conducted, managed, or operated by an alcohol treat-

ment facility licensed under the alcoholism and intoxication treatment act, K.S.A. 65-4001 et seq. and amendments thereto, shall be admitted to the KSH or KVH. A member who abuses alcohol may be furloughed and may be considered for discharge by the commission.

(5) Drug abuse. No person who is abusing drugs and not participating in a program conducted, managed, or operated by a drug treatment facility licensed under the drug abuse treatment facilities act, K.S.A. 65-4601 et seq. and amendments thereto, shall be admitted to the KSH or KVH unless the abuse is the result of the use of a legally prescribed medication. A member who abuses drugs, prescription or illegal, may be furloughed and may be considered for discharge by the commission.

(6) Removal from the KSH or KVH. Any member who becomes mentally ill or legally incompetent or who becomes addicted to or abuses alcohol or drugs as specified in this regulation may be subject to furlough or discharge.

(c) Children. Only minor children shall be eligible for admission to the KSH and the KVH. No minor child shall be eligible for admission unless accompanied by a member parent or member guardian. No child who is 16 years of age or older shall be admitted to or reside in the KSH or KVH unless the child is incapable of self-support and the superintendent makes such a declaration. Determination of eligibility of dependent children shall be in accordance with federal laws and USDVA regulations applicable to state veterans' homes.

(d) Dependents. No person shall be admitted as the spouse of the applicant unless the marriage is valid under the laws of the state of Kansas. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1908, 76-1928, 76-1931, 76-1951, 76-1954, and 76-1955; effective May 1, 2009.)

97-1-4. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-1-4a. Application for membership.

(a) Processing and approval. No application for membership shall be considered until the person has submitted a complete application packet on forms furnished by the KSH or KVH.

(1) Application packets may be obtained at and returned to any KCVA field office or service organizational office. The application packet shall be

submitted by the office to the superintendent at the KSH or KVH, as applicable, for review of completeness. If the application packet is not complete, the application packet shall be returned to the applicant, with an indication of the portions that are incomplete. Upon determination of completeness, the superintendent shall forward the application packet to the executive director.

(2) Except for applications submitted by individuals with felony convictions, each complete application shall be required to be approved by the executive director before the applicant may be admitted to the KSH or KVH.

(3) For each applicant with a felony conviction, that applicant's completed application shall be evaluated by the commission regarding the rehabilitation of the applicant and current degree of dangerousness to the applicant, other persons, and the property of others before the applicant may be admitted to the KSH or KVH.

(4) Each spouse or dependent who desires membership in the KSH or KVH shall complete the appropriate forms in the application packet.

(5) Each applicant shall include a certification of inability to provide self-support without additional aid.

(b) Investigation of applicants. The information on each application shall be verified by a staff member, as directed by the superintendent.

(c) False applications; procedure. An applicant may be denied admission or a member may be discharged if the commission ascertains that the applicant or member has committed either of the following:

(1) Has misrepresented the age of a minor child. The veteran or veteran's spouse, or both, shall be responsible for ensuring the accuracy of the information in the application of a minor child; or

(2) has misrepresented any other material matter for the purpose of obtaining admission, continuing membership, or obtaining any other benefits of either home. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

97-1-5. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-1-5a. Priority for admission. (a) Priority criteria. Admission shall be granted pursuant to K.S.A. 76-1908(g) and K.S.A. 76-1954(g)(1), and amendments thereto.

(1) The first priority for admission shall be given to veterans who have no adequate means of support. Within this group, priority shall be based on the severity of medical care required and the ability to pay for health care.

(2) The second priority for admission shall be given to a veteran's spouse or surviving spouse, parents, or children who have no adequate means of support, with priority based on the criteria specified in paragraph (a)(1) of this regulation.

(3) The third priority shall be given to veterans who have a means of support.

(4) The fourth priority shall be given to a veteran's spouse or surviving spouse, parents, or children who have a means of support.

(b) Residence halls. The superintendent of the KSH or KVH shall consult with that person's medical staff to assist in the prioritization of members.

(c) Cottages.

(1) Cottages, which are located only at the KSH, shall be available to eligible members, including those in need of domiciliary care.

(A) If domiciliary care is needed, the veteran member shall show that the care will be provided by that member's spouse, parent, or child. If a family member can not provide domiciliary care, the KSH superintendent shall be so notified, and the veteran member shall be directed to undergo a medical evaluation to determine whether that person can reside alone.

(B) If the KSH superintendent suspects that an applicant or a veteran member needs domiciliary care, the superintendent may direct that applicant or veteran member to undergo a medical evaluation to determine whether that person can reside alone.

(C) If the medical staff determines that the veteran member needs domiciliary care and resides alone, the KSH superintendent may direct that the veteran member be placed in the domiciliary unit for care until a permanent arrangement is made.

(2) No cottage shall be initially assigned to the spouse, parent, or child of a deceased veteran member. If the veteran member dies, the surviving spouse, parent, or child shall have 180 days to vacate the premises. Before the end of the 180-day period, any surviving nonveteran spouse may move to a domiciliary unit or a one-bedroom cottage, if available, at the rental rate established for nonveterans. If a one-bedroom cottage is not available, the superintendent may allow the non-

veteran spouse to remain by exception in the two-bedroom cottage past the 180-day period, contingent upon pending admissions. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

97-1-6a. Approval or denial of application, notification to applicant, and right of reconsideration; right of hearing; final decision. (a) Approval of application. If an applicant qualifies for admission, the application shall be approved if there is space available in the KSH or KVH or shall be conditionally approved until space is available. Each applicant shall be notified in writing by the appropriate superintendent or by the executive director, whether the application is approved or denied.

(b) Denial of application.

(1) If an applicant is denied admission, written notification shall be sent to the last known address of the applicant by the appropriate superintendent, the executive director, or the commission. The notification shall state the reason or reasons for the denial.

(2) Within 30 days of the date of the decision, the applicant may file at the office of the executive director a written request for reconsideration by the commission. The request shall state the reasons supporting approval of the application. If no timely request is filed, the notification of denial shall become the final decision.

(3) Unless waived by the applicant, a hearing shall be set upon receipt of a request for reconsideration. The hearing shall be scheduled at the earliest available commission docket. The applicant shall be notified by the executive director of the date, time, and place of the hearing. The notice shall be mailed to the last known address of the applicant at least 10 days before the hearing.

(4) At the hearing, notice may be taken by the commission of its administrative records and files, and any other relevant evidence and arguments offered by the applicant, employees of the KCVA, or other interested persons may be heard by the commission. The applicant may appear in person, through telephone, by an attorney, or any combination of these.

(5) If the applicant fails to attend the hearing, the commission's decision may be made based upon the KCVA's records, files, and any other evidence that was presented at the hearing. The commission's decision shall be determined by a

majority vote. A written decision shall be filed by the commission with the executive director, setting forth the facts and reasons for the commission's decision. Within 30 days after the hearing, a copy of the decision shall be sent by the executive director to the applicant at the applicant's last known address. The filed decision shall be considered the final agency action. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

Article 2.—RULES GOVERNING MEMBERS

97-2-1. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

97-2-1a. Charges. Charges to each member shall be based on the member's ability to pay and shall not exceed the applicable KSH or KVH per diem cost of care for the prior year or the charges made to patients pursuant to K.S.A. 59-2006 and amendments thereto, whichever is less. Each member shall notify the superintendent, within five business days, of any increase or decrease in income or assets. The business manager shall submit an annual accounting to the superintendent, or designee, of each member's resources to determine the member's appropriate charges. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904a and 76-1952; effective May 1, 2009.)

97-2-2. (Authorized by K.S.A. 76-1932; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-2-2a. Comfort money. Comfort money shall mean a protected amount of each member's income that is not used in determining the member's charges and is held for the member's use, benefit, and burial. The amount of comfort money shall be annually determined by the commission at its November meeting and shall become effective on February 1 of the following year. Each member shall be given written notice by that member's superintendent, within 45 days after the commission's November meeting, of the amount of comfort money authorized by the commission. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904a, 76-1935, 76-1952, and 76-1956; effective May 1, 2009.)

97-2-3. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-2-4. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; revoked May 1, 2009.)

97-2-5. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

97-2-6. (Authorized by K.S.A. 76-1906, 76-1927; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980; revoked May 1, 2009.)

97-2-7. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-2-8. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

Article 3.—DISCHARGES; TERMINATION OF MEMBERSHIP

97-3-1. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-1a. Personal conduct; guests. (a) Personal conduct. The following actions by any member or any member's guest while at the KSH or KVH shall be prohibited:

(1) Violating any state statute, state regulation, or lawful order of any superintendent or designee of the superintendent;

(2) brandishing a weapon;

(3) cursing, swearing, quarreling, or using violent, profane, vulgar, or threatening language or conduct that tends to arouse alarm or anger, disturbs others, or provokes an assault or other breach of the peace;

(4) intentionally or willfully damaging or destroying any property of another person or entity, the KSH or KVH, or the state;

(5) being under the influence of alcohol or illegal drugs, or both; and

(6) engaging in any activity or behavior not otherwise specified in this subsection that interferes with the orderly conduct of the KSH or KVH.

(b) Guests. Each member shall be responsible for informing that member's guest of the personal conduct prohibited by this regulation. No mem-

ber of the KSH or KVH shall house any person as an overnight guest without the prior approval of the superintendent. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

97-3-2. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-2a. Pets and service or therapeutic animals; hunting prohibition. (a) No animals may be kept on the premises of the KSH or KVH by members, guests, or employees, except as specified in this regulation.

(b) As used in this regulation, "pet" shall mean a domesticated cat weighing 25 pounds or less or a domesticated dog weighing 80 pounds or less.

(c)(1) Horses may be kept on the grounds at the KSH or KVH as designated by prior written authorization from the superintendent.

(2) Any guest may have a pet on the premises of the KSH or KVH, for not more than a six-hour period between 7 a.m. and 10 p.m.

(3) Each pet at the KSH or KVH shall meet the following requirements:

(A) Have current vaccinations;

(B) be restrained with a leash and wear a collar with a tag identifying its owner while in public or open areas of the KSH or KVH;

(C) be properly maintained;

(D) not become a nuisance or threat to staff, members, or guests; and

(E) not interfere with the normal conduct and operation of the KSH or KVH.

(d)(1) Only an employee or member living in a cottage at the KSH may be allowed to maintain more than one pet if the requirements in paragraph (c)(3) are met and prior approval for each pet has been given by the superintendent.

(2) Each employee or member living in a cottage at the KSH who utilizes a service or therapeutic animal shall notify the superintendent that the animal is maintained at that employee's or member's cottage.

(e) Only service and therapeutic animals shall be allowed to be maintained by employees or members living in residential halls other than the cottages at the KSH and KVH.

(f) Hunting shall not be allowed on the premises of the KSH or KVH. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-

1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

97-3-3. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-3a. Passes. (a) Absences.

(1) Twenty-three hours or less. Each member who desires to be absent from the KSH or KVH for 23 hours or less shall obtain the prior written approval of the superintendent or the superintendent's designee.

(2) More than 23 hours. Each member shall be required to obtain a pass from the superintendent for any absence longer than 23 hours. No pass shall exceed a total of three months in any 12-month period.

(3) Absences by members residing in cottages at the KSH. Each cottage member who is absent for more than 30 days with a pass shall pay an additional rent payment at the rate prescribed in K.A.R. 97-1-1a.

(4) Extensions. Any pass may be extended once by the superintendent for not more than 30 days.

(5) Early return. Each member who is absent with a pass or pass extension and who wants to return before the expiration of the pass or pass extension shall notify the superintendent at least 10 days before the date on which the member desires to return to the KSH or KVH.

(b) Medical pass. A veteran member shall request that the superintendent issue a medical pass for the purpose of being hospitalized or domiciled in a USDVA medical center. During the period that the veteran member is absent with a medical pass, the status of the veteran member's dependents shall remain unchanged. The veteran member shall be readmitted by the superintendent under the same terms and conditions as those under which the veteran member was originally admitted. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

97-3-4. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-5. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-6. (Authorized by and implementing

K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1984; revoked May 1, 2009.)

97-3-7. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

97-3-8. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; revoked May 1, 2009.)

97-3-9. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; revoked May 1, 2009.)

**Article 4.—VETERAN MEMORIAL
DONATIONS TO THE KANSAS
COMMISSION ON VETERANS' AFFAIRS
FOR THE CONSTRUCTION AND
MAINTENANCE OF CAPITAL
IMPROVEMENT PROJECTS**

97-4-1a. Disciplinary actions; discharge. (a) Complaints. Any person may make a verbal or written complaint to the superintendent alleging a violation of any statute or regulation.

(b) Investigation. Upon receipt of a complaint, the superintendent shall conduct an investigation. If the investigation reveals reasonable grounds to believe that a member has violated a statute or regulation, no warning has been given for prior offenses in the past 12 months, and the current offense did not cause property damage or bodily injury, the superintendent may advise the member of the violation and warn the member that if the conduct or activity does not cease, proceedings will be commenced to discharge the member. As an alternative, a report by the superintendent may be sent to the KCVA detailing the investigation of the complaint, identifying the regulation that was violated, and recommending discharge of the member.

(c) Notice. Upon recommendation that a member be discharged, a hearing shall be scheduled at the earliest available commission docket. The member shall be notified by the executive director of the factual allegations of the complaint, the applicable statute or regulation, and the date, time, and place of the hearing. The notice shall be mailed to the last known address of the member at least 10 days before the hearing.

(d) Proceedings. At the hearing, notice may be taken by the commission of its administrative files and records, and any other relevant evidence and arguments offered by the member, staff, employees of KCVA, or any other interested persons may be heard by the commission. The member may

appear in person, through telephone, by an attorney, or any combination of these. If the member fails to attend, the decision may be made by the commission based upon its files and records and any other evidence that was presented at the hearing.

(e) Final decision. A written decision shall be filed by the commission with the executive director. The written decision shall set forth the facts and reasons for the commission's decision. A copy of the decision shall be sent by the executive director to the member at the member's last known address. The filed decision shall be considered the final agency action.

(f) Vacating premises. If the decision is adverse to the member, the member shall vacate the residence or cottage within 30 days of the date on which a copy of the commission's decision was sent to the member. The member may ask the superintendent for an additional 14 days due to unusual and extenuating circumstances. As used in this subsection, "unusual and extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the member's control and that is sufficiently extreme in nature to result in the inability or inadvisability to vacate the premises by the deadline specified. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1928, 76-1931, 76-1932, and 76-1955; effective May 1, 2009.)

Article 7.—VIETNAM WAR ERA MEDALLION PROGRAM

97-7-1. Definitions. As used in L. 2009, ch. 62, secs. 1 through 6 and amendments thereto and these regulations, each of the following terms shall have the meaning specified in this regulation:

(a) (1) "Active service" and "active duty" shall include the following:

(A) For a member of an active component of the armed forces of the United States, the time served on active duty for which the member has received or is eligible to receive the Vietnam war era medallion for service related to the Vietnam war; and

(B) for a member of the armed forces of the United States, time served on active duty for the support of operations in the Vietnam war whether or not that service was in the country of Vietnam.

(2) These terms shall include any time spent in a hospital as a result of service-connected wounds, diseases, or injuries sustained on active service.

Proof of this service shall be the official military records of the United States or other evidence as deemed sufficient by the director of veteran services.

(3) These terms shall not include time served on active duty for annual training or schooling, except for training and schooling in preparation for active duty in the Vietnam war.

(b) "Director of veteran services" means the designated director of the veteran services program for the Kansas commission on veterans' affairs, who is appointed by the executive director of the Kansas commission on veterans' affairs.

(c) "Parent" shall include the following:

(1) The natural or adoptive parent of a veteran; and

(2) any person who, for a period of at least one year, acted in the capacity of a foster parent to a veteran immediately before the veteran attained 18 years of age.

(d) "Program" means the Vietnam war era medallion program.

(e) "Spouse or eldest living survivor of a deceased veteran" means any of those individuals listed in K.A.R. 97-7-4. (Authorized by and implementing L. 2009, ch. 62, sec. 2; effective March 12, 2010.)

97-7-2. Veteran status. (a) To be considered a veteran for purposes of the program, each applicant shall establish both of the following to the satisfaction of the director of veteran services:

(1) The person for whom the application under the program is submitted is a veteran.

(2) The person for whom the application under the program is submitted meets the requirements specified in L. 2009, ch. 62, sec. 1, and amendments thereto.

(b) In addition to meeting the requirements in subsection (a), the applicant shall certify that the person for whom the application under the program is submitted meets both of the following requirements:

(1) Was not, at any time during the Vietnam war, separated from the armed forces under other than honorable conditions, including a bad conduct discharge or dishonorable discharge, or an administrative discharge under other than honorable conditions; and

(2) has never renounced United States citizenship. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 1 and sec. 2; effective March 12, 2010.)

97-7-3. Legal resident status. (a) Proof of residence. In addition to establishing the veteran status of the person for whom an application under the program is submitted as specified in K.A.R. 97-7-2, the applicant shall establish to the satisfaction of the director of veteran services that the person was a legal resident of Kansas during the person's active service within the period beginning February 28, 1961 and ending May 7, 1975. The proof of residence shall be the official records of the United States or other evidence deemed sufficient by the director of veteran services.

A legal resident of Kansas shall mean an individual for whom Kansas was the state of domicile while serving in the United States armed forces or a reserve component of the United States armed forces within the period specified in this subsection and who did not claim legal residence in any other state during that period of active service, without regard to the place of enlistment, commission, or induction. A service member's legal residence shall not change by virtue of military assignment to another state.

(b) Home of record in Kansas shown in official military records. Each veteran whose home of record is listed as Kansas in official military records showing qualifying active service within the period beginning February 28, 1961 and ending May 7, 1975 shall be considered a legal resident without regard to the veteran's place of enlistment, commission, or induction.

(c) Home of record in Kansas not shown in official military records. In making a determination of legal residence if official military records do not show Kansas as the veteran's home of record for the period of active service, the director of veteran services shall apply a rebuttable presumption that the veteran was not a legal resident of Kansas. The applicant may rebut this presumption by showing facts and circumstances establishing that Kansas was the veteran's legal residence because Kansas was the veteran's permanent place of abode to which the veteran intended to return.

(d) Documentation. If an applicant is unable to document the veteran's legal residence in Kansas by means of official military records showing a home of record in Kansas during the period of active service, the director of veteran services may consider the following documentation when determining whether sufficient evidence exists to show that the veteran was a legal resident of Kan-

sas who did not claim legal residence in any other state at that time:

(1) Voter registration records for the period beginning February 28, 1961 and ending May 7, 1975;

(2) proof of payment of state income tax as a resident for the period beginning February 28, 1961 and ending May 7, 1975;

(3) (A) Kansas driver's license or Kansas identification card; and

(B) any similar documentation for the period beginning February 28, 1961 and ending May 7, 1975;

(4) other proof of a Kansas residential address for the period beginning February 28, 1961 and ending May 7, 1975, including a high school diploma or attendance record for a Kansas high school, real estate records, utility receipts, and any other records showing residence in Kansas; and

(5) an affidavit of residence submitted by the applicant under penalty of law in which the applicant swears or affirms that the veteran on whose behalf the application under the program is submitted remained a legal resident of Kansas and did not claim legal residence in any other state for any purpose during the period of active service occurring within the period beginning February 28, 1961 and ending May 7, 1975. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 1 and sec. 2; effective March 12, 2010.)

97-7-4. Applicants on behalf of deceased veterans. (a) The following individuals shall be eligible to apply under the program on behalf of eligible deceased veterans. Eligible deceased veterans shall include eligible veterans who died in performance of active service or as a result of service-connected wounds, diseases, or injuries and veterans who would, but for their death before submission of an application, be eligible to apply under the program based on active service. Applicants shall be considered in the following order:

(1) The surviving spouse of the eligible veteran, unless the surviving spouse was living separate and apart from the veteran when the veteran commenced active service. The proof of spousal status required shall be the same as the proof that would be accepted by the United States department of veterans affairs. The surviving spouse shall certify that the individual was not living separate and apart from the eligible veteran when the veteran commenced active service. If a surviving spouse qualifies under the program, the Vietnam war era

medallion, medal, and certificate of appreciation shall be awarded to the surviving spouse at the time of the veteran's death;

(2) survivor, which shall mean the eldest surviving child of the eligible veteran if there is no eligible surviving spouse. The eldest surviving child shall certify that there is no eligible surviving spouse, as part of the application; and

(3) the surviving parents of the eligible veteran, if there are no eligible surviving spouse and no eligible surviving children. The surviving parents shall certify that there are no eligible surviving spouse and no eligible surviving children, as part of the application.

(b) If the eligibility of a surviving spouse, surviving child, or surviving parents is disputed, the director of veteran services shall defer awarding the Vietnam war era medallion, medal, and certificate of appreciation until the parties resolve the dispute or a court of competent jurisdiction issues an order making a determination on the issue. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, secs. 3, 4, and 5; effective March 12, 2010.)

97-7-5. Application procedures. (a) Forms. Each application for benefits under the program shall be submitted on a form provided by the Kansas commission on veterans' affairs.

(b) Submission. Each application shall be submitted to the address designated by the Kansas commission on veterans' affairs on the application form.

(c) Additional documentation. Each application shall be accompanied by the required number of

copies, as stated on the application, of supporting documentation from official military records of the United States armed forces or its reserve components, including DD form 214 or similar documentation showing periods of active service, and documentation of the veteran's home of record. If the application is submitted on behalf of a deceased veteran, a copy of the death certificate shall be attached.

(d) Review of applications. The director of veteran services shall conduct a review of each application for completeness. If the application is deemed complete, the director shall review the application to determine eligibility.

(e) Incomplete applications. Each incomplete application shall be returned to the applicant. (Authorized by L. 2009, ch. 62, sec. 2, and implementing L. 2009, ch. 62, sec. 2 and sec. 5; effective March 12, 2010.)

97-7-6. Reconsideration of denied applications. Any applicant who is dissatisfied with the disposition of the application may ask the Kansas commission on veterans' affairs to reconsider the disposition. Each request for reconsideration shall meet the following requirements:

(a) Be submitted within 30 days of receipt of the initial disposition of the application;

(b) be in the form of a letter or memorandum;

(c) state why the applicant is dissatisfied with the disposition; and

(d) state the reasons, including facts and circumstances, the applicant believes the disposition should be altered. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 5; effective March 12, 2010.)